

by the non-Federal entity will not create a potential hazard; certification of the proposal will be in the general public interest.

(d) Costs assigned to that part of the local improvement that would constitute an integral part of the prospective recommended Federal plan can be included for credit toward required local cooperation. The amount creditable shall equal the expenditures made by the non-Federal entity for work that would have been accomplished at Federal expense if the entire project were carried out by the Corps of Engineers. However, credit will not exceed the amount the District Engineer considers a reasonable estimate of the reduction in Federal expenditures resulting from the local work. Costs of subsequent maintenance will not be credited. In the event that the local construction work is financed by a Federal non-reimbursable grant or Federal funds from other Federal sources, the amount creditable against future local cooperation requirements shall be reduced by a commensurate amount. However, there will be no corresponding reduction in the benefits credited for the local improvement.

(e) Local interests are responsible for developing all necessary engineering plans and specifications for the work they propose to undertake. However, those non-Federal engineering costs and overhead costs directly attributable to the creditable part of local work may be included in the amount credited.

#### **§ 276.7 Procedures.**

(a) Non-Federal entities desiring certification credit under the provisions of section 134a of Pub. L. 94-587 should confer with the District Engineer and submit a written application to him. The application will include full description of planned work, plans, sketches, and similar engineering data and information sufficient to permit analysis of the local proposal.

(b) The District Engineer shall review the engineering adequacy of the local proposal and its relation to the possible selected Federal Plan and determine what part of the proposed local improvement would be eligible for certification. Prior to certification, the

District Engineer will obtain the concurrence—through the Division Engineer and the Chief of Engineers—of the Assistant Secretary of the Army (Civil Works) by forwarding a copy of the draft survey report and providing information on:

(1) Coordination with local interests including results of public meetings and circulation of the draft EIS.

(2) Basis for concluding the local plan is appropriate in relation to the prospective Federal plan.

(3) Total estimated cost of creditable work.

(4) The urgency for proceeding with the local plan.

(c) The District Engineer shall reply by letter stating to the local applicant what local work and costs can reasonably be expected to be creditable under the provisions of section 134a. This letter shall be the certification contemplated under section 134a. The certification shall include the following conditions:

(1) Issuance of certification shall not be interpreted as a Federal assurance regarding later approval of any project nor shall it commit the United States to any type of reimbursement if a Federal project is not undertaken.

(2) Issuance of the certification does not eliminate the need for compliance with other Federal, State, and local requirements, including any requirements for permits, Environmental Impact Statements, etc.

(3) If the improvement proposed by the non-Federal entity includes work that will not become a part of the Federal project, the means of determining the part eligible for reimbursement shall be fully defined.

(4) Certification shall expire 3 years after the date of certification if the non-Federal entity has not commenced the work contemplated by the certification.

(d) The non-Federal entity will notify the District Engineer when work commences. The District Engineer will conduct periodic and final inspections. Upon completion of local work, local interests shall provide the District Engineer details of the work accomplished and the actual costs directly associated therewith. The District Engineer shall audit claimed costs to a

certain and confirm those costs properly creditable and shall inform the non-Federal entity of the audit results.

(e) During further Corps studies, the local work actually accomplished that would constitute a legitimate part of the overall recommended Federal project may be incorporated within any plan later recommended for authorization. It shall be permissible to include the accepted costs of such certified local improvement and the flood control benefits properly attributable thereto in the benefit-cost computations for the recommended plan.

(f) If the Corps report recommends Federal authorization of a plan that incorporates credit for local work certified under section 134a, the report shall include a specific recommendation to cover this credit and shall provide full identification and description of the local work for which such credit is recommended.

(g) The District Engineer shall submit a copy of his certification letter and notification of creditable costs of completed work to the Assistant Secretary of the Army (Civil Works) through the Division Engineer and the Chief of Engineers.

(h) All justification sheets supporting new start recommendations for Advance Engineering and Design or Construction projects will include information on certification activities in the paragraph on local cooperation. The information should include but not be limited to date of certification, work completion, description and cost of credit work.

#### **§276.8 Cessation.**

The legislation specifies that this authority shall cease to be in effect after December 31, 1977. No requests for certification will be processed after that date. To be eligible for credit, proposals for local work must have been certified by the District Engineer no later than December 31, 1977. There is no requirement that the local improvement be initiated or accomplished by that date.

## **PART 277—WATER RESOURCES POLICIES AND AUTHORITIES: NAVIGATION POLICY: COST APPORTIONMENT OF BRIDGE ALTERATIONS**

### **Sec.**

- 277.1 Purpose.
- 277.2 Applicability.
- 277.3 References.
- 277.4 Definitions.
- 277.5 General.
- 277.6 Basic policies.
- 277.7 Coordination with the U.S. Coast Guard.
- 277.8 Procedures for apportionment of costs.

APPENDIX A TO PART 277—SEC. 6, PUB. L. 647, AS AMENDED (33 U.S.C. 516)

APPENDIX B TO PART 277—HYPOTHETICAL EXAMPLE OF COST APPORTIONMENT

AUTHORITY: Sec. 2, River and Harbor Act of 1920, 41 Stat. 1009, June 5, 1920; 33 U.S.C. 547.

SOURCE: 44 FR 31129, May 30, 1979, unless otherwise noted.

#### **§277.1 Purpose.**

This regulation provides policies and guidelines for the apportionment of bridge alteration costs required in connection with navigation improvements recommended in reports transmitted to the Chief of Engineers for approval or submitted to Congress for authorization.

#### **§277.2 Applicability.**

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

#### **§277.3 References.**

- (a) Section 6, Pub. L. 647, 67th Congress, 21 June 1940, as amended (33 U.S.C. 516). (Appendix A).
- (b) Section 6, Pub. L. 89-670, Department of Transportation Act, 15 October 1966 (49 U.S.C. 1655).
- (c) Coast Guard reference: G-ECV-1, Truman-Hobbs Act.
- (d) ER 1105-2-50.
- (e) EP 1165-2-2 Appendix E.

#### **§277.4 Definitions.**

The following definitions are applicable to this regulation: